

FREQUENTLY ASKED CSR QUESTIONS & ANSWERS

Updated December, 2003

Scope and Effective Date.....	3
Cases and Matters	3
What is a case?.....	3
Difference between “case” and “matter”	4
Collecting information on matters	4
Non-LSC Funded Cases.....	4
Non-LSC funded cases in general.....	4
Cases involving over-income clients	5
Kennedy Amendment cases.....	5
Timely Closing of Cases.....	5
Timely closing rule	5
Deadline for closing cases	6
Applicability to cases opened prior to January 1, 2000.....	6
Cases in which assistance ceased some time ago	7
Old Extended Service Cases	7
Cases which cannot be closed in the current year.....	8
Cases opened near the end of the year.....	8
Administrative closure after closing letter goes to client.....	9
What to do if a client returns after case closure.....	9
Case Closing for Waiting List Cases	10
Counsel & Advice (CSR Category A)	10
Discussion with ineligible applicant at initial contact	10
Advice given to eligible applicant during intake	11
Advice given to eligible applicant at point of acceptance	11
Supplying a Pamphlet as Counsel and Advice	11
Brief Service (CSR Category B).....	12
Difference between “Counsel and Advice” and “Brief Service”	12
Cases too lengthy to be considered “brief”	13
Referred After Legal Assessment (CSR Category C).....	13
Cases not accepted for service	13
Over-income applicants	13
Otherwise ineligible applicants.....	14
Eligible applicants with restricted legal problems	15
Applicants with legal problems outside priorities	15
Cases not accepted because of insufficient resources.....	15
Cases referred after acceptance.....	16
Client Withdrew (CSR Category E)	16
Accepted client misses appointment.....	16
Accepted client misses PAI appointment	17
Client becomes uncooperative	17
Non-Traditional Forms of Service	18
Legal assessment without direct assistance to client	18
Attendance at pro se clinics	18

How to report complex pro se workshops	19
Hotline assistance.....	19
Private Attorney Involvement Cases	20
Cases transferred to PAI attorneys.....	20
Cases outside priorities assigned to private attorneys.....	20
Cases transferred to PAI attorneys after provision of service.....	21
Closing Unsuccessful PAI Referrals if Staff Have Rendered Some Legal Assistance to the Client.....	21
Case closing code for transferred cases	22
Which Case Closing Code?	22
Client withdraws after a court order has been obtained.....	22
Court Order Allowing Counsel to Withdraw.....	22
Closing code for complex powers of attorney	23
How to handle cases where the disposition is uncertain.....	23
Case closure code for in pro per cases	24
Appeals	24
How to report appeals	24
Appeals in cases which were previously closed	24
Case closure codes for cases remanded after appeal	25
Documentation Requirements.....	25
Documentation requirements for hotline cases	25
Documentation of case acceptance	26
Documentation of financial eligibility	26
Documentation for Title III, Title IV and Title XX Elderly Cases and VAWA Cases	27
Documentation of citizenship for brief service by telephone	28
Documentation Requirements for D (Insufficient Merit), E (Client Withdrew), and J (Change in Eligibility) Cases	28
Cases in which a Retainer is Required but not Obtained.....	29
How Many Cases to Report?	29
Preparation of Tax Forms for one Client in Multiple Jurisdictions	29
Protective Order and Divorce for the Same Client	29
Protective Order and Subsequent Action to Enforce After Case Closure	30
SSI and SSDI Claims for the Same Client.....	30

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Updated December, 2003

(New Q&A's are in [blue](#))

Scope and Effective Date

When did the CSR Handbook take effect?

Answer:

The April 28, 2000 revisions (and the June 15, 2000 corrections) took effect January 1, 2000, with the exception of the last sentence of §2.3 which took effect on July 1, 2000. Thus, for the year 2000, the 1999 CSR Handbook – Revised governed all CSR reporting, with the exception of the last sentence of §2.3. The 2001 Handbook contained only one substantive change, that relating to Titles III and IV of the Older Americans Act, Title XX of the Social Security Act and the Violence Against Women Act. This change took effect January 1, 2002.

Reference(s): LSC Program Letter 2000-3 and 2000-3, Corrections.

Cases and Matters

What is a case?

Under the 2001 Handbook, what is a “case”?

Answer:

Section 2.1 of the 2001 CSR Handbook defines a case as the provision of permissible legal assistance to an eligible client. In addition, LSC's regulations on priorities and timekeeping define a case as the provision of representation, advice, brief service, or transactional assistance by an attorney or paralegal.

Whether a particular service meets the definition of a case may require careful consideration of the nature of the service provided. Sections VI, VII, and VIII of the 2001 Handbook contain guidance on when common types of services can be reported as cases.

Reference(s): 2001 CSR Handbook, §2.1; 45 CFR §§ 1620.2(a) & 1635.2(a).

Difference between “case” and “matter”

What is the difference between a “case” and a “matter”?

Answer:

A service which does not meet the definition of a “case” is a “matter”. Types of matters include: (1) referrals of ineligible applicants; (2) community education presentations; (3) distributions of written materials about developments in the law; and (4) other services not involving the provision of direct advice or representation by an attorney or paralegal to an eligible client.

Reference(s):

2001 CSR Handbook, §7.1; 45 CFR §§ 1620.2(b) & 1635.2(b).

Collecting information on matters

LSC has initiated a new Matters Service Reporting system, effective July 1, 2002. For more information on this system see Program Letter 01-2 and the Matters Service Report Frequently Asked Questions on the Recipient Information Network.

Non-LSC Funded Cases

Non-LSC funded cases in general

The 1999 CSR Handbook changed the rules for reporting non-LSC funded cases in annual case service reports. Which non-LSC funded cases can be reported to LSC?

Answer:

The test is whether the case could have been supported with LSC funds. If the case could be supported with LSC funds, it may be reported to LSC in case service reports. For each such case, the client must be financially and otherwise LSC-eligible, and all required LSC eligibility information must be collected and recorded as required by Section 5.2 of the 2001 CSR Handbook.

Reference(s):

2001 CSR Handbook §§ 4.3 & 5.2.

Cases involving over-income clients

Can we report non-LSC funded cases in which clients do not meet LSC financial eligibility requirements?

Answer:

No. The cases may be reported to LSC only if they could be supported with LSC funds.

Reference(s): 2001 CSR Handbook, § 4.3

Kennedy Amendment cases

The Kennedy Amendment to LSC's appropriation act permits programs to use non-LSC funds to represent a battered spouse who does not meet 45 CFR Part 1626 alien eligibility requirements. Now that we are reporting non-LSC funded cases, do we report assistance provided pursuant to the Kennedy Amendment in our annual case service reports?

Answer:

No. Clients in cases reported to LSC must be eligible for representation with LSC funds. Even if the Kennedy Amendment client is financially eligible, the client is not LSC-eligible, because the client is not a citizen or eligible alien. Although the Kennedy Amendment allows the use of non-LSC funds to support legal assistance to an otherwise ineligible alien, as specified by 45 CFR Part 1626.4, this exception does not make the client eligible for LSC-funded assistance.

Reference(s): 2001 CSR Handbook §§ 4.3 & 5.5.

Timely Closing of Cases

Timely closing rule

The new CSR Handbook contains requirements for timely case closure. How do these requirements affect case service reporting?

Answer:

Section 3.3 of the 2001 CSR Handbook requires timely closing of cases. The general rule is that cases should be closed in the year in which program staff determine that assistance to the client has ceased and is not likely to resume. For cases involving only Counsel and Advice, Brief Service, or a Referral After Legal Assessment, the determination whether to close the case should occur as soon as practicable, and not later than the time of submission of case service reports two months after the close of the year (except that cases opened in the last quarter of a year are allowed “safe harbor” and may be closed and reported in the next year without any inquiry as to whether they could have been closed in the year they were opened). For cases involving extended service, which often involve the possibility of an appeal, programs have greater flexibility about when to make a determination about closure.

Reference(s): 2001 CSR Handbook, § 3.3.

Deadline for closing cases

Does the timely closing requirement mean that we need to close cases by December 31 each year?

Answer:

No. Case service reports are submitted to LSC through annual Grant Activity Reports, which are due March 1 each year. This gives programs two additional months to close cases that should have been closed in the immediately prior year. Ordinarily, the two month additional time for submitting case service reports should be sufficient for programs to review and clear up any backlog of open cases which are due for closing.

Reference(s): 2001 CSR Handbook, §§ 3.3 & 3.4.

Applicability to cases opened prior to January 1, 2000

What effect does the revised CSR Handbook have on cases opened prior to 2000?

Answer:

All provisions of the revised CSR Handbook apply to cases which were opened in prior years and which remained open as of January 1, 2000, except that the requirement that all casehandlers must keep time as required by 45 CFR 1635 took effect on July 1, 2000. This means that prior-year cases closed in 2000 and thereafter may be reported to LSC in case service reports only if they meet all the requirements of the revised CSR Handbook, including those added or amended by Program Letter 2000-3.

Reference(s): Program Letter 2000-3.

Cases in which assistance ceased some time ago

We have a backlog of cases which probably should have been closed in a prior year. We effectively ceased representing the clients in these cases some time ago, but we haven't closed them administratively yet. Can we close and report these cases to LSC in our case service reports for the current year?

Answer:

It depends on the type of service provided. If the only service provided is Counsel and Advice, Brief Service, or a Referral After Legal Assessment, the cases may not be reported to LSC in the current year, unless they were opened in the last quarter of the prior year or unless there is some assistance provided in the current year. If the cases involve extended service, such as a court decision, administrative agency decision, or negotiated settlement, the cases may be closed in the current year if they are not unreasonably old (see next question) and if there is additional work done on the cases in the current year, such as preparation of a case closing memorandum or a closing letter to the client.

Reference(s): 2001 CSR Handbook, § 3.3

Old Extended Service Cases

Question – we have old extended service cases, mostly Court Decision and mostly from our PAI program, in which a court decision or other event completing service to the client occurred in years prior to 2001. Action to close these cases has been taken in 2001. What can we count?

Answer – For extended service cases, the applicable rule is in §3.3 of the 2001 Handbook and reads:

all other cases (CSR Categories D through K) should be reported as having been closed in the year in which program staff make a determination that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared.

This section is designed to allow a more liberal rule for closing of cases other than A, B, or C because these cases must already have much more extended documentation and are less likely to be the result of visits to different offices or other forms of duplication and hence are more reliable even if not closed as promptly as they should be.

Also, they represent a substantial amount of work often done over several years, so the distortion caused by reporting them in a later year is not as great as it is for A, B, and C cases. Nevertheless, this is a rule of reason and not a license to close any extended service case in a program's records whenever it is discovered.

Accordingly, cases that are excessively old should not be reported to LSC. If the last service to the client (usually obtaining a court or administrative agency decision or completing a settlement) occurred in a year more than one year before the year of closure, the case will be considered "excessively old" and may not be reported to LSC, even if a closing memorandum is completed in the year of closure. For example, if a court decision was obtained in 2000 but a closing memorandum (a client closing letter may serve in place of a case closing memorandum) was not done until 2001, the case may be reported in the year 2001 CSR's, but if the court decision was obtained in 1999, it may not be reported and must be closed with an earlier year date, preferably one such as December 25, 1999, so the record is clear that it was not reported to LSC.

Reference(s): 2001 CSR Handbook, § 3.3.

Cases which cannot be closed in the current year

We have a number of cases from prior years which involved only Counsel and Advice, Brief Service, or a Referral After Legal Assessment. Section 3.3 of the 2001 CSR Handbook won't permit us to close them in the current year. What do we do with these older cases, if we can't close them in the current year?

Answer:

These cases should be closed administratively with a closing date which matches the year in which assistance ceased. For example, cases which should have been closed during 1998 should have a 1998 closing date so that they are not included in case service reports for a later year. Closing these prior-year cases with a unique closing date such as December 25 or July 4 enables subsequent identification of cases closed in this fashion.

Reference(s): 2001 CSR Handbook, § 3.3.

Cases opened near the end of the year

What do we do about cases opened near the end of a year? Often we're not sure whether a client is going to return, and we would prefer to keep the cases open for a month or two to see if there are any further developments in the case.

Answer:

The CSR Handbook has been amended to mitigate this problem. Cases opened on October 1 or later in one year may be closed in the next year, irrespective of when service was completed. For cases opened before October 1, programs should exercise discretion about their closing date. The intent of the CSR Handbook is not that cases be closed in the same year they are opened, but rather that they be closed in the year in which assistance ceases.

For cases involving Counsel and Advice, Brief Service, or a Referral after Legal Assessment only, there is a presumption that assistance ceases when the Counsel and Advice, Brief Service, or Referral is provided. However, if a program has reason to believe that assistance has not ceased, because there is a likelihood that the client may return for further assistance in the same case, then keeping the case open into the new year is appropriate.

Reference(s): 2001 CSR Handbook, §§ 3.3, 6.2, & 6.3.

Administrative closure after closing letter goes to client

Should a program close a case administratively in the same year in which it has sent a letter informing a client that it was closing the case?

Answer:

Yes. A program should administratively close a case as soon as practicable after informing a client that representation has ceased. Programs have two months from the end of each year until case service reports are submitted in annual Grant Activity Reports. This should be enough time to complete administrative closure of cases in which closure letters have gone to clients.

Reference(s): 2001 CSR Handbook, § 3.3.

What to do if a client returns after case closure

We understand that the 2001 CSR Handbook requires timely closing of cases, and the “single-reporting” rule requires that we not open a second case in the same year for the same client and same legal problem. What do we do if we’ve closed a case, and the client returns for further assistance with the same case?

Answer:

The appropriate action depends on whether the client returns in the same year in which the case was closed. Whether the client is returning with essentially the same legal problem is also a consideration. If the client returns in the same year with essentially the

same legal problem, the case should be re-opened, so that it is not reported more than once in the same year.

However, if the case has been closed and reported to LSC in one year, and the client returns in the next year, the original case need not be re-opened. In this situation, opening a new case is appropriate, even if the client returns with essentially the same legal problem. The intent of the 2001 CSR Handbook is that one client and one legal problem equals one case *in any one year*. Accordingly, the reporting of two cases where assistance occurs in two separate years is permissible under the 2001 Handbook.

Reference(s): 2001 CSR Handbook, §§ 3.3, 6.2 & 6.3.

Case Closing for Waiting List Cases

We do a number of durable powers of attorney for elderly clients. There are so many requests that there needs to be a waiting list. When the clients contact us they are given advice on these documents based on their particular circumstances. If they decide they want durables they may be put on a waiting list, depending on the caseloads in the office which serves their community. They are always informed of the option of contacting the state bar association and getting them done at a very reduced rate if they don't want to wait. To be in compliance with timely closing rules, should we close these cases out as “Counsel and Advice” at the end of the year and reopen them in the next year when we can prepare the documents or keep them open on hold and make a note in the file to that effect and then complete and close them as a brief service in the next year?

Answer:

Since this is a continuing instance of assistance, the better way is to continue the cases into the next year and place a note in the file that assistance is ongoing because the client is on a waiting list for durable power of attorney. Should the client decide to go to the Bar Association, then it could be closed in the current year, probably under C, Referred After Legal Assessment. In no instance should files be closed at the end of one year and then immediately reopened in the next year, as this could clearly be viewed as creating duplicative and higher case counts, and is not permissible.

Reference(s): 2001 CSR Handbook §3.3(a)(ii).

Counsel & Advice (CSR Category A)

Discussion with ineligible applicant at initial contact

An applicant calls or comes into the office, and in the course of discussing the applicant's legal problem we determine that the applicant is ineligible for assistance. Can we count our discussion with the applicant as “Counsel and Advice”?

Answer:

No. The applicant must be eligible and the case accepted for service before it can be reported as closed in any of the 11 CSR case closing categories. If the client is not eligible, the case cannot be accepted and cannot be reported to LSC.

References: 2001 CSR Handbook, §§ 2.1(a), 2.2(a).

Advice given to eligible applicant during intake

An applicant calls or comes into the office and we determine that the applicant is financially and otherwise eligible for assistance, and the applicant's legal problem is not restricted. During the intake process, we give the client some advice, but we do not complete intake or accept the case for assistance. Can we count the case as "Counsel and Advice"?

Answer: No. Although the applicant may be eligible, if the intake and acceptance process is not complete, including documentation of required eligibility information, the case may not be reported in any of the CSR case closing categories.

References: 2001 CSR Handbook, §§ 2.1(c) & 5.2.

Advice given to eligible applicant at point of acceptance

A client calls on the telephone and we record the necessary eligibility information and accept the case through our intake process for advice only. In that same telephone call, we discuss the client's legal problem, advise the client about how to deal with the problem, and make a notation that we provided assistance in the case. This is our only contact with the client. Can we report the case to LSC as "Counsel and Advice"?

Answer:

Yes. The case has been accepted and electronic or hard-copy documentation of eligibility has been prepared during the intake process, and the program has provided at least some advice or other direct legal assistance to the client. This situation meets the CSR Handbook's requirements for reporting a case to LSC.

Reference(s): 2001 CSR Handbook, §§ 2.1 & VIII-A.

Supplying a Pamphlet as Counsel and Advice

An applicant calls or comes into the office. We determine that the applicant is eligible and accept the case for service. The intake staff person makes notes about the client's legal problem and says we will send you a pamphlet. The pamphlet goes out to the client. Can this be reported as "Counsel and Advice"?

Answer:

Only if the sending of the pamphlet meets the CSR Handbook's definition of "Counsel and Advice." At a minimum, the pamphlet must be sufficiently specific to the client's actual legal problem so as to constitute "counseling of the client on action(s) to take to address a legal problem." Furthermore, in order for the mailing of the pamphlet to meet the 45 CFR §§ 1620.2 and 1635.2 definitions of a case, the program should ensure that an attorney or paralegal has reviewed the legal problem as described by the client and has concluded that the pamphlet sufficiently addresses the client's legal problem so as to constitute legal advice to the client.

Reference(s): 2001 CSR Handbook, § VIII; 45 CFR §§ 1620.2(a) & 1635.2(a).

Brief Service (CSR Category B)

Difference between "Counsel and Advice" and "Brief Service"

What is the difference between "Counsel and Advice" and "Brief Service"?

Answer:

The difference between "Counsel and Advice" and "Brief Service" depends on whether the program does more than speak with, or give written advice, to a client. If program staff contact a third party, or prepare correspondence or other written material to send to a third party, or prepare a legal document, such as a will, for the client, the assistance becomes more than "Counsel and Advice."

Generally, the term "Brief Service" characterizes cases in which program staff either contact a third party on behalf of a client or prepare a legal document, such as a will or a contract, for the client. "Brief Service" also captures the situation where the program prepares written correspondence to a third party. In these instances, document preparation qualifies as "action taken on behalf of a client" within the meaning of the 2001 Handbook's definition of "Brief Service."

Reference(s): 2001 CSR Handbook, §§ VIII-A & VIII-B.

Cases too lengthy to be considered “brief”

We have a number of cases which involve complex transactional assistance, such as powers of attorney, which can last for several months and involve a significant amount of work. These cases do not involve court action, administrative agency proceedings, or negotiated settlements. In what closure category should we report them?

Answer:

The “Brief Service” category is not an appropriate case closing category for cases that are of lengthy duration. Complex transactional cases that are not brief in duration should be closed in the “Other” category. These would include cases which involve work over an extended period of time, and that do not involve litigation or negotiation with an opposing party.

Reference(s): 2001 CSR Handbook, §§ VIII-B & VIII-K.

Referred After Legal Assessment (CSR Category C)

Cases not accepted for service

If we refer an applicant to another provider without accepting the applicant’s case for assistance, can we count the referral as “Referred After Legal Assessment”?

Answer:

No. Acceptance of the case and the provision of at least some advice or other legal assistance to an eligible client are preconditions to reporting a case under any of the 11 CSR case closing categories. Pursuant to 45 CFR §§ 1620.2 and 1635.2, assistance which does not involve direct legal advice to, or representation of, an eligible client does not constitute a “case” and may not be reported to LSC as such. It should be reported to LSC as a “Matter” under the Matters Service Reporting procedures instituted July 1, 2001.

Reference(s): 2001 CSR Handbook, §§ 2.1(c) & 7.2; 45 CFR §§ 1620.2 & 1635.2; Program Letter 01-5.

Over-income applicants

An over-income applicant calls or comes into the office to ask for assistance. In the course of intake, we discover that the applicant is over-income and we refer the

applicant to another provider. Can we count the case as “Referred After Legal Assessment”?

Answer:

No. All cases reported to LSC must involve clients who are eligible to receive legal assistance provided with LSC funds. Although programs may use non-LSC funds to provide assistance to clients who are over-income, cases involving such clients may not be reported to LSC in annual case service reports (nor may LSC funds be used for such cases, except for the minimal amounts that may be used in doing intake and arranging a referral).

Reference(s): 2001 CSR Handbook, §§ 2.1(a), 5.2, & 7.1.

Otherwise ineligible applicants

An applicant calls or comes into the office, and we determine that the applicant is income-eligible. However, the applicant is not a U.S. citizen, and we cannot establish alien eligibility pursuant to 45 CFR Part 1626. We refer the applicant to another provider. Can we count the case as “Referred After Legal Assessment”?

Answer:

No. Cases involving ineligible applicants cannot be reported under any CSR case closing category (nor may LSC funds be used for such cases, except for the minimal amounts that may be used in doing intake and arranging a referral). Even though programs may use non-LSC funds to provide representation to certain ineligible aliens under the Kennedy Amendment, as implemented by 45 CFR § 1626.4(a), such cases may not be handled with LSC funds, and they may not be reported to LSC in annual case service reports.

Other eligibility requirements apply regardless of source of funding. For example, programs may not provide assistance in public housing eviction proceedings to persons who have been charged with, or convicted of, engaging in certain illegal drug activity. See 45 CFR Part 1633. Similarly, programs may not participate in civil litigation or administrative proceedings on behalf of persons incarcerated in Federal, State, or local prisons. See 45 CFR Part 1637. Programs may, however, give advice to a client who is incarcerated at the time and is otherwise eligible for legal assistance, and such a case could be reported to LSC as counsel and advice.

References: 2001 CSR Handbook, § 2.2(a), footnote 3.

Eligible applicants with restricted legal problems

An applicant calls or comes into the office and describes his or her legal problem after we establish income eligibility. The applicant's legal problem is a restricted case type, so we refer the applicant to another provider. Can we count the case as “Referred After Legal Assessment”?

Answer:

No. Restricted cases cannot be reported under any of the 11 CSR case closing categories (nor may LSC funds be used for such cases, except for the minimal amounts that may be used in processing intake and arranging a referral).

Reference(s): 2001 CSR Handbook, §§ 2.1(d), 2.1(e), 7.1 & 7.2.

Applicants with legal problems outside priorities

An income-eligible applicant calls or comes into the office with a legal problem that is not restricted, but the applicant's legal problem is not within our program's priorities, and it is not an emergency case which we could accept pursuant to 45 CFR § 1620.4. We refer the applicant to another provider. Can we count the case as “Referred After Legal Assessment”?

Answer:

No. The case could not be accepted, so it cannot be reported to LSC. Except for emergency cases accepted pursuant to 45 CFR § 1620.4, programs cannot accept cases outside their priorities, so such cases cannot be reported to LSC. However, some programs have made providing some service (at least Counsel and Advice) to all eligible clients in all eligible cases a priority. If a program has such a priority, then the client could be accepted for the purpose of giving counsel and advice and the case reported as Counsel and Advice.

Reference(s): 2001 CSR Handbook, §§ 2.1(b), 7.1 & 7.2.

Cases not accepted because of insufficient resources

An income-eligible applicant calls or comes into the office with a legal problem which is within our program's priorities, but our staff have an excessive workload of cases, so we refer the applicant to another provider without providing any assistance other than the referral. Can we count this as “Referred After Legal Assessment”?

Answer:

No. The case could have been accepted, but it was not, and the applicant has not received any assistance other than the referral. Because the case was not accepted, and the applicant received no legal assistance, it cannot be reported as a case in the program's case service reports.

References: 2001 CSR Handbook §§ 2.1(c) & 7.2; 45 CFR §§ 1620.2 & 1635.2.

Cases referred after acceptance

An income-eligible applicant calls or comes into the office with a legal problem which is within our program's priorities, and we accept the case. After doing some legal work on the case, we determine that the client's legal problem is more susceptible to solution by a social service agency and refer the client to the social service agency. Can we count the case as "Referred After Legal Assessment"?

Answer:

Yes, if program staff provided at least some advice or other direct legal assistance to the client. Because the program determined that another organization could better serve this client *after* accepting the client's case and providing at least some advice or other direct assistance, such a case can properly be counted as "Referred After Legal Assessment." Had the client been referred to a social service agency *before* case acceptance, or before any advice and other assistance was given to the client, the case could not have been reported to LSC.

Reference(s): 2001 CSR Handbook, § 7.2.

Client Withdrew (CSR Category E)

Accepted client misses appointment

We accept a client through our intake system and schedule an appointment with a casehandler. The client never shows up for the appointment. Can the case be counted as "Client Withdrew"?

Answer:

The case can be reported only if: (i) the client's eligibility is documented; (ii) the case is accepted according to the recipient's normal intake procedures or another established process for assuring client eligibility; (iii) at least some advice or other

service is rendered to the client; and (iv) there is an attempt to contact the client. The program should be able to demonstrate the attempt to contact the client, either through a copy of a letter to the client's last known address or through a notation of a telephone call.

Reference(s): 2001 CSR Handbook §§ 5.2, VIII-E.

Accepted client misses PAI appointment

We accept a client through our program's intake system and assign the client's case to a PAI attorney. The client never shows up for the appointment with the PAI attorney. Can the case be reported as "Client Withdrew"?

Answer:

The case can be reported only if: (i) the client's eligibility is documented; (ii) the case is accepted according to the recipient's normal intake procedures or another established process for assuring client eligibility; (iii) at least some advice or other service is rendered to the client; and (iv) there is an attempt to contact the client. The program should be able to demonstrate the attempt to contact the client, either through a copy of a letter to the client's last known address or through a notation of a telephone call.

Reference(s): 2001 CSR Handbook §§ 5.2, VIII-E.

Client becomes uncooperative

We have a client whom we've accepted for service. In the course of representation, the client becomes uncooperative, and we have to withdraw from the case. How should we report the case?

Answer:

Provided that the client is eligible and received some assistance prior to becoming uncooperative, the case may be closed in either the "Client Withdrew" category or in another CSR category that accurately reflects the level of assistance which the client received prior to becoming uncooperative. If the client becomes completely uncommunicative, even though the program can still locate the client, then "Client Withdrew" best describes the situation, because, while the client could be located, the failure to communicate constitutes effective withdrawal from the case.

If the client remains in communication but consistently refuses to take the program attorney's advice, this can also necessitate withdrawal from the case. Such a situation could also be reported in the "Client Withdrew" category. Although the client is still

involved in the case, it has become impossible for the program to continue representation because of the client's conduct.

Reference(s): 2001 CSR Handbook, §§ 6.1 & VIII-E.

Non-Traditional Forms of Service

Legal assessment without direct assistance to client

An eligible applicant contacts our program, and we determine that the applicant is eligible and accept the case for legal assessment and referral only. We gather information about the applicant's case, conduct some analysis, and refer the case to another provider whom we consider well suited to handle the case. Can we report the case as "Referred after Legal Assessment"?

Answer:

Only if the client received some direct advice or representation from the program prior to the referral. Even if the assessment of the client's legal problem was substantial, if there was no direct advice or representation of the client, the legal assessment done on behalf of the client cannot be reported as a case. Pursuant to 45 CFR §§ 1620.2(b) and 1635.2(b), assistance which "does not involve direct legal advice or legal representation of one or more specific clients" is a "matter" which may not be reported to LSC as a case. LSC has, however, initiated Matter Service Reports, effective July 1, 2001, and such a referral should be reported to LSC as a Matter.

References: 45 CFR §§ 1620.2 & 1635.2.

Attendance at pro se clinics

Our program conducts a *pro se* clinic on family law. Can we report the assistance provided to attendees at the clinic as instances of "Counsel and Advice"?

Answer:

Yes, provided there is a documented eligibility determination. If eligibility is documented for each attendee according to the program's eligibility guidelines, and each attendee received some advice within the CSR Handbook's definition of Counsel and Advice, then the assistance received by each attendee can be reported as "Counsel and Advice." If eligibility documentation is present only for some attendees, only those attendees can be reported as having received Counsel and Advice. If there is no

eligibility determination for any attendee, then none of the assistance provided at the clinic can be reported as a case.

Reference(s): 2001 CSR Handbook, §§ 5.2 & 6.6.

How to report complex pro se workshops

Our program runs a pro se workshop which prepares clients for a fairly complicated legal proceeding. The workshop involves 8-10 clients and lasts about 3 hours, consisting of two sessions, one to prepare initial papers and a second one at a later date to prepare a motion for an uncontested judgment after the case has been filed. How should attendance at these workshops be reported?

Answer:

Provided that eligibility has been documented for each attendee, the appropriate category for reporting assistance provided in the workshop depends on the level of specific assistance *which the program actually provides* to the attendee. For example, if the program does not appear in court on behalf of an attendee, the assistance cannot be reported as a Court Decision or as an Administrative Agency Decision. But, if attendance at a pro se workshop involves assisting attendees with the preparation of pleadings or other legal documents, the assistance provided by the program meets the CSR Handbook's definition of "Brief Service."

Reference(s): 2001 CSR Handbook, §§ 6.6 & VIII-B.

Hotline assistance

An applicant calls our telephone hotline number, and an intake specialist makes a record of the necessary eligibility information and determines that the applicant is eligible for assistance. In that same telephone call, the intake specialist discusses the client's legal problem and advises the client about how to deal with the problem. This is our only contact with the client. Can we report the case as "Counsel and Advice"?

Answer:

Yes. There has been a recorded determination of eligibility, and the caller has received some advice which addresses a specific legal problem. In addition, for a case to be reported to LSC in an annual case service report, there must also be a decision on case acceptance, wherever it occurs in the program's intake and case acceptance process. In this instance, case acceptance occurs when the intake specialist determines that the caller meets LSC eligibility requirements and has a legal problem which is amenable to advice provided over the telephone.

Reference(s): 2001 CSR Handbook, § 2.1.

Private Attorney Involvement Cases

Cases transferred to PAI attorneys

Under what circumstances can a case transferred to a program's PAI component be closed as "Referred After Legal Assessment"?

Answer:

Almost none. The transfer of a case to a PAI component does not reflect the final disposition of a case, and therefore closing of the case is not appropriate. Final disposition does not occur until after a PAI attorney has completed work on the case. Therefore, a case should **never** be closed when it is referred to a PAI attorney, but only **after** the PAI attorney closes the case.

The only situation in which a PAI case may be closed as "Referred After Legal Assessment" is when the PAI attorney or program refers the case *to another provider* after the PAI attorney or program has provided at least some Counsel and Advice in the case. Because this is a relatively infrequent event, PAI cases should almost never be closed in the "Referred After Legal Assessment" category.

Reference(s): 2001 CSR Handbook, §§ 3.2, 6.1 & 7.3.

Cases outside priorities assigned to private attorneys

An eligible applicant calls or comes into the office with a case that is not restricted but does not meet our program's priorities. We refer the applicant to a private attorney. Can the case be reported as "Referred After Legal Assessment"?

Answer:

No. The applicant's case has not been accepted, so it cannot be reported in any of the 11 CSR case closing categories. Furthermore, a case cannot be reported as "Referred After Legal Assessment" unless the case is accepted and at least some advice or other service is rendered to the client before the case is referred to a private attorney. The assistance to the applicant should, however, be reported to LSC as a Matter under the Matter Service Reporting system initiated July 1, 2001.

Reference(s):

2001 CSR Handbook, §§ 2.1(c) & 7.3.

Cases transferred to PAI attorneys after provision of service

We accept an eligible client for assistance, and a staff casehandler provides Brief Service to the client. Sometime later, the client needs further assistance with the same legal problem, and this time our PAI component transfers the client's case to a PAI attorney. Can we report the case as "Referred After Legal Assessment"?

Answer:

No, because the transfer of the case to the PAI component does not constitute final closing of the case. Even though services were rendered to the client, the case cannot be closed, either as "Brief Service" or as "Referred After Legal Assessment, until all work is done on the case. The case can be closed only **after** the PAI component closes the case. Furthermore, the case cannot be reported as closed once as "Brief Service" by the staff casehandler and again, later, in a different CSR category by the PAI component.

Reference(s): 2001 CSR Handbook, §§ 3.2, 6.1, & 7.3.

Closing Unsuccessful PAI Referrals if Staff Have Rendered Some Legal Assistance to the Client

Our pro bono PAI program has a special situation regarding certain cases that we attempt to place with a private attorney. Specifically, we always provide some level of service, at the A or B level prior to including the case in those identified for potential private attorney placement. A number of these cases will not be successfully placed with a private attorney. When this happens, the only legal assistance provided has been by a program staff member. However, a long time, often into the next year, elapses before we are informed that the case will not receive a private attorney placement. We are concerned that these cases would appear untimely if closed a year later, due to a recent notification from our pro bono referral that the case was not referred. Can we still report such cases as A or B after we are notified of non-placement by pro bono?

Answer

Yes for PAI attempted referral cases only. In this situation, the program's legal work did happen shortly after intake. Thus, all that is necessary is to place a note in the file or case management system stating that the case had been kept open because further assistance had been expected to be delivered (see §3.3 (a)(ii) of the Handbook) and is no longer expected to be delivered because it was a PAI referral and has been returned without further action.(include reason PAI referral was not successful). Please note that when the case is returned after an attempted PAI referral it must be closed promptly unless further legal assistance is being rendered to the client by staff.

References: 2001 CSR Handbook §3.3(a)(ii).

Case closing code for transferred cases

In footnote 8 to the definition of “Referred After Legal Assessment”, the 2001 CSR Handbook states that a case referred to another program office, a subrecipient or a PAI attorney may not be reported as a closed case until the other office, subrecipient or PAI attorney has completed all work on the case. When the case is completed and closed, which CSR category should be used?

Answer:

The CSR closing category should be whichever one best describes the legal services rendered to the client, just as in any other case. It should not be “Referred After Legal Assessment”, except in the instance when the client is referred to an attorney or organization outside the program after the client has received some assistance from the program.

Reference(s): 2001 CSR Handbook §§ 6.1, 7.3, & VIII-C.

Which Case Closing Code?

Client withdraws after a court order has been obtained

Our client withdraws after we have obtained a court order on behalf of the client. For example, we got an emergency order of protection, but the client did not follow up and does not seek a plenary order of protection. Can we close the case as a “Court Decision”?

Answer:

Yes, because the program did obtain a court decision in the case. If the client withdraws after a court or administrative order or settlement is obtained, the case may be closed as Court Decision or Administrative Agency Decision or Settled With Litigation, as appropriate. All other cases in which a client withdraws must be closed as “Client Withdrew.”

Reference(s): 2001 CSR Handbook § VIII, Footnote 9.

Court Order Allowing Counsel to Withdraw

If a case is closed by obtaining a court order allowing the program to withdraw as

counsel in the case, how should this case be closed?

Answer:

It should be reported as closed by Court Decision, because it is closed as a result of an action by a court.

Reference(s): 2001 CSR Handbook §8.

Closing code for complex powers of attorney

Our program does quite a few health care and property powers of attorney. These are quite complicated and often stretch over an extended period of time. Must they be closed as “Brief Service”, or may they be closed as “Other”?

Answer:

The best choice is “Other.” Closing such “transactional” cases in which there is no opposing party under the Other category is reasonable when “Brief Service” does not adequately reflect the amount of work done.

Reference(s): 2001 CSR Handbook, § VIII-K.

How to handle cases where the disposition is uncertain

May an administrative staff person close a case in the “Other” category when the staff person is not sure what the disposition in the case was?

Answer:

No. Use of the “Other” category is appropriate only when the reason for closure is known but does not fit within any of the other CSR case closing categories. When an administrative staff person is not sure about the disposition of the case, the staff person should check with the advocate who handled the case in order to determine the most appropriate way to categorize the case. If program staff is unable to determine what, if any, legal assistance the client received, the case may not be reported to LSC.

Reference(s): 2001 CSR Handbook, §§ 5.1 & 6.1.

Case closure code for in pro per cases

If our program limits its assistance to helping a client represent themselves *in pro per* (for example, in a divorce case), and we were never attorney of record in the court docket, can we close the case as “Court Decision” when the client gets a final court decision?

Answer:

No. If the program does not appear in court on behalf of the client, the case cannot be reported as a “Court Decision”, because this category does not appropriately represent the level of assistance which the program actually provided to the client. However, if the client filed the case *in pro per* but the program later made an appearance in court as the client’s attorney and got a final court decision, then the case could be reported as “Court Decision”, even though the program did not initially file the case. Otherwise, the possible alternatives for this type of case are “Counsel and Advice”, “Brief Service”, or “Other.”

Reference(s): 2001 CSR Handbook, §VIII.

Appeals

How to report appeals

We’re not sure how to report appeals. If we appeal a judgment to a higher court, does the appeal count as a separate case since it must be resolved through a different process or forum?

No. The rule is that one legal problem in any one year equals one case. Even though there is a separate court proceeding in an appeal, the appeal should be treated as the same case because it involves the same underlying legal problem. The 1993 edition of the CSR Handbook contained a definition of case which referred to process or forum, and this language could have been interpreted to permit treating an appeal as a separate case. However, under the 2001 CSR Handbook, beginning in 1999, an appeal may not be recorded as a separate case.

Reference(s): 2001 CSR Handbook, §§ 6.2 & 6.5.

Appeals in cases which were previously closed

What do we do if there is an appeal in a case which we had previously closed? Should we go back and re-open the original case, or should we open a new case?

Answer:

If a case has been properly closed and reported in a prior year's case service report, and there is an appeal in the following year, the program may open a new case for the appeal. However, if the program knows that a case is likely to be appealed, then it should wait to close the case until the appeal period has run. If the case is not appealed (or if the program does not represent the client on the appeal), then the case should be closed at the end of the appeal period.

Reference(s): 2001 CSR Handbook, §§ 3.3 & 6.5.

Case closure codes for cases remanded after appeal

If appeals cannot be treated as separate cases, how should cases involving significant court work, whether in a trial or appellate court, be closed when the reviewing court remands the case to a lower court or agency?

Answer:

Generally, programs have discretion in choosing a case closure category which best reflects in the program's judgment the level of assistance the program provided. If the appeal was the real event leading to case closure, but the administrative agency actually finished the case, a program could adjudge the case to be a "Court Decision."

Reference(s):

2001 CSR Handbook, § 6.1.

Documentation Requirements

Documentation requirements for hotline cases

Are there any differences in documentation requirements applying to hotline cases (as opposed to other cases)?

Answer :

No, with one minor exception. Generally, all LSC eligibility and documentation requirements must be met in order to report hotline assistance as a case. The only exception to this requirement is for limited assistance provided over the telephone. When the only contact with an eligible client is by telephone, whether through a hotline intake system or otherwise, and when the only assistance provided is Counsel and Advice, Brief Service, or a Referral After Legal Assessment, obtaining a written attestation of citizenship of documentation of alien eligibility is not required.

Reference(s): 45 CFR §§ 1626.6(a) & 1626.7(a).

Documentation of case acceptance

Section 2.1 of the 2001 CSR Handbook states that case acceptance is required for each case reported to LSC in annual case service reports. Does this mean that we need to document the date, time and manner of acceptance of each case we handle?

Answer:

No, although programs may choose for their own purposes to include a notation on an intake sheet or other case file document to demonstrate acceptance, specific documentation of case acceptance is not required. Generally, if all required eligibility documentation is complete, and there is a case file or other record of assistance provided to an eligible client, case acceptance may be inferred from the existence of eligibility documentation and the provision of legal assistance. The only documentation specifically required for each case is that described in Section 5.2 of the 2001 CSR Handbook.

Reference(s): 2001 CSR Handbook, § 5.2.

Documentation of financial eligibility

Sections 5.3 & 5.4 of the 2001 CSR Handbook state that documentation of financial eligibility must include “specific” information on income and assets. Does this mean that we need to record the specific value of each asset in the client’s possession?

Answer:

No. At a minimum, documentation of financial eligibility must include the total amount of household income and the total amount of household assets accessible to the client. Because in many cases the actual, current value of household assets may be

difficult to determine with precision, a reasonable approximation will be sufficient. For example, the documentation of assets could be a notation showing a range, such as \$5,000-\$6,000.

Reference(s): 2001 CSR Handbook, § 5.3 & 5.4.

Documentation for Title III, Title IV and Title XX Elderly Cases and VAWA Cases

LSC has issued a new requirement for collection of financial information in Title III, Title IV and Title XX elderly and Violence Against Women Act cases even where the law prohibits use of any financial test for eligibility. How do we document eligibility for these cases?

Answer:

For cases closed prior to January 1, 2002 (and for cases closed in January and February 2002 where legal assistance was completed in 2001 and where the case will be reported in the 2001 CSR's) documentation of household income and assets is not required for Title III, Title IV and Title XX elderly and Violence Against Women Act cases. For these cases, all other required documentation must be collected, especially that required by 45 CFR Part 1626.

For cases closed after January 1, 2002 and reported in the 2002 CSR's, the case may be reported only if financial eligibility information can be collected. Such financial information could be collected: (a) after the client has been notified that the case has been accepted but in the same visit or telephone conversation at which the case is accepted; (b) later during the case; or (c) it may come into the program's possession as a result of the legal requirements of a case (for example, in an alimony or child support case, detailed information on income and assets is usually needed).

If it is collected later in the case, this should be done as soon as is feasible, but it may be used to support eligibility even if there is a considerable time lag because it is collected as a result of the legal requirements of the case, rather than from a specific request from the client. In all instances when this information is requested of the client for eligibility purposes, the client must be informed: (a) that this information is needed for statistical reporting purposes; (b) that it has no bearing on the continuation of representation; and (c) that the client may refuse to provide it and still continue to receive representation. Of course, if the information is needed to prosecute the case, then the foregoing does not apply. Many programs already do collect financial information after acceptance in such cases.

Reference(s): 2001 CSR Handbook, §§ 4.3 and 5.2.

Documentation of citizenship for brief service by telephone

45 CFR §§ 1626.6(a) and 1626.7(a) provide exceptions for “brief advice and consultation by telephone”, such that written attestations and documentation of alien eligibility are not required when assistance is provided only over the telephone. Do these exceptions apply to Brief Service conducted over the telephone?

Answer:

Yes. LSC permits lesser amounts of documentation when a client does not come into the office, the reason being that if the provision of assistance does not require the client to be physically present or provide written documents through the mail, then the intake process should not either. Therefore, when the only contact with a client is by telephone, and when the only assistance provided is either Counsel and Advice, Brief Service, or a Referral After Legal Assessment over the telephone, obtaining a written attestation of citizenship is not required. However, this exception does not absolve programs of the obligation to inquire about citizenship status in the telephone intake process.

Reference(s): 2001 CSR Handbook §5.5.

Documentation Requirements for D (Insufficient Merit), E (Client Withdrew), and J (Change in Eligibility) Cases

We know that there are some lesser requirements for documentation when legal assistance is provided over the telephone and the assistance is limited to A (Counsel & Advice), B (Brief Service), or C (Referral After Legal Assessment). If service is provided only over the telephone and the client withdraws (E), becomes ineligible (J), or the case is determined to have Insufficient Merit (D), may we meet similar lesser requirements?

Answer

No. All cases except A, B, and C cases **must** comply with the full documentation requirements of the CSR Handbook. Thus all cases in closing codes D through K must comply with the full CSR Handbook requirements, including, but not limited to, a signed citizenship attestation. However, many potential D, E, and J cases should normally also qualify as A, Counsel & Advice, or B, Brief Service cases, so you should be able to report them under one of these closing codes, provided they do meet the reduced documentation requirements for A, B, or C telephone cases. Of course, if any such cases involve “continuous representation” under 45 CFR 1626.6(b) or 1626.7(b), full citizenship or eligible alien documentation is required anyway.

Reference(s): 2001 CSR Handbook §§5.5, 7.2, 45 CFR §§1626.6(b) and 1626.7(b).

Cases in which a Retainer is Required but not Obtained

If we have a case where all the other requirements are met, but we failed to obtain a Retainer Agreement where a Retainer Agreement was required under LSC regulations, can the case be reported as a CSR case?

Answer

Yes, it is still a reportable CSR case. The failure to obtain a Retainer Agreement is a regulatory compliance issue under 45 CFR 1611.8 but it does not affect the reportability of the case in your CSR's.

Reference(s): 2001 CSR Handbook §§2.1, 5.

How Many Cases to Report?

Preparation of Tax Forms for one Client in Multiple Jurisdictions

We perform tax work for the IRS. They require that we count each tax return (state, federal and city) as a separate case. They reason that each is a different forum. Is this acceptable to LSC or must we count them differently for CSR purposes?

Answer

This scenario counts as three cases because, although the facts are the same, the forms are different and the advocate must undertake a separate legal review of the facts under different law. It is worthy of note, however, that it does not matter for LSC purposes what rules another organization (in this case the IRS) has for case counting, as LSC rules govern the counting of CSR's.

Reference(s): 2001 CSR Handbook §6.4.

Protective Order and Divorce for the Same Client

Can a protective order and a later divorce for the same client in the same year be counted as two separate cases?

Yes, they can be counted as two separate cases. They are different legal problems and even have different problem codes. However, there may be an issue if the two are

sought **simultaneously**, rather than successively, and are sought in the same forum, because they may fall under §6.4 of the Handbook as resolving related legal problems of the client simultaneously through a single legal process.

Reference(s): 2001 CSR Handbook §6.4.

Protective Order and Subsequent Action to Enforce After Case Closure

We get a protective order and close the case. Within the same calendar year in which we close the case, the client returns because of a violation of the protective order and we go to court to enforce the protective order. One case or two cases?

Answer

This is a close decision. If the court action to enforce the protective order is under the same civil action number, count it as one case; if under a different civil action number, count it as a second case. Of course, if the client returns after the end of the calendar year in which you closed the case, it counts as a second case anyway.

Reference(s): 2001 CSR Handbook §6.3.

SSI and SSDI Claims for the Same Client

A client comes in with both SSI and SSDI claims. They are different statutory sections, but both are heard before the same tribunal and usually the same ALJ. Significant fact issues are the same (e.g. disability), but other are different -- SSI deals with assets, SSDI does not; SSDI deals with covered quarters under Social Security, SSI does not. They are under different problem codes. Can these two claims be counted as two cases?

Answer

No. Even though there are some differing issues of fact, the legal problems are related and are resolved through a single legal process. Different problem codes are not dispositive of allowing the counting of two cases if the issue is the resolution of related legal problems in a single legal process. If the issue were whether there is only a single legal problem, then different problem codes would be dispositive.

Reference(s): 2001 CSR Handbook §6.4.